IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 448 of 1987

For Approval and Signature:

Hon'ble MR.JUSTICE R.K.ABICHANDANI
and
Hon'ble MR.JUSTICE M.C.PATEL

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

PATEL MAGANBHAI TAPUBHAI
Versus
OFFICER ON SPECIAL DUTY

Appearance:
MR SURESH M SHAH for Petitioners
MS NANDINI JOSHI, AGP for Respondent No. 1

CORAM : MR.JUSTICE R.K.ABICHANDANI
and
MR.JUSTICE M.C.PATEL

Date of decision: 07/08/2002

ORAL JUDGEMENT

(Per : MR.JUSTICE R.K.ABICHANDANI)

1. The petitioners have challenged the impugned order at Annexure 'B' to the petition made on 27th January, 1987 by the Officer on Special Duty No.2, Land Acquisition, GIDC, Ahmedabad rejecting the application of the petitioners dated 22nd August, 1986 for making a reference under Section 18 of the Land Acquisition Act on the ground that the award dated 28th July, 1986 made in respect of acquisition of the lands of Survey no.18/1 was a consent award under Section 11(2) of the said Act.

2. It appears from the record shown to us by the learned counsel for both the sides that an application was made on 22nd August, 1986 for making a reference under Section 18 of the said Act in context of the award made on 28th July, 1986 under the Land Acquisition Act for acquisition of the lands of Survey No.18/1. The copy of the award indicates that it was made under Section 11(2) of the Act and that Tapubhai Velabhai and Devjibhai had remained present on 29th March, 1984 and given a statement indicating their consent to the amount of compensation offered by the Corporation in respect of the lands of Survey No.18/1 admeasuring 2 hectares 96 Are and 43 square metres. In their application, the petitioners alleged that Tapubhai who was the father of the petitioners no.1 to 8 and Devjibhai who was the father of the petitioners no.9 to 14 were not authorised to give their consent and the consent of these petitioners was not separately taken in the prescribed forms. Several other grounds were also raised in their application.

3. Apart from the merit of the contentions which were raised by the petitioners, we note from the impugned order that the order does not deal with the contentions which were raised and urged before the Land Acquisition Officer in the personal hearing that took place on 12th January, 1987, as recorded in the impugned order. The impugned order even does not deal with the contention of the petitioners that the consent award was not binding on them, and, is virtually an unreasoned order. It was incumbent upon the said authority to deal with the main contention of the petitioners having bearing on the question whether the consent award was binding on them and to give a finding on that and on that basis, to decide whether the reference could be made.

4. The impugned order dated 27th January, 1987 at Annexure 'B' made by the Officer on Special Duty No.2, Land Acquisition, GIDC, Ahmedabad is, therefore, hereby set aside with a direction to the respondent to reconsider the application of the petitioners dated 22nd

August, 1986 after hearing the petitioners and take a fresh decision in the matter in accordance with law expeditiously, preferably within two months from the date of the receipt of the writ of this order. Rule is made absolute accordingly with no order as to costs.

(R.K. Abichandani, J.)

(M.C. Patel, J.)

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